



SCHOOLS
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May 21, 2008

LEGISLATIVE UPDATE (*by Nancy LaCasse, School Services of California*): On May 14, Governor Arnold Schwarzenegger released his May Revision, which provides an up-to-date state revenue forecast and revised spending plan. For education, the Governor rescinds his January proposal to suspend Proposition 98 as well as significantly cut school district revenue limits and special education programs, but still maintains across-the-board cuts to almost every other categorical program. This latest proposal does not provide a cost-of-living-adjustment to school agencies.

Now it is up to the Legislature to craft its own budget proposal and begin the process of working out the major issues that exist among the two Houses and parties. The major sticking points continue to be on whether new revenues or additional cuts will be part of the package aimed at wiping out a now projected \$15 billion deficit. In his May Revision, the Governor proposes to address the deficit by securitizing future Lottery proceeds; this proposal is getting mixed reviews from state policymakers in the State Capitol.

In other breaking news, the state Division of Workers' Compensation is recommending a 16% increase in disability payments under proposed rules. These proposed rules are based on a review of how wage losses relate to injuries under the worker compensation formula in use since 2005. More information can be found in the *News Update* below.

BILL UPDATE: SELF has taken a position on several bills impacting school liability and Workers' Compensation. These positions are being communicated to members of the Legislature as bills work their way through the legislative process.

[AB 2181 \(Ruskin\)](#)

Title: Workers' Compensation: Return-to-Work Program

Status: Senate

Amended: 4/10/08

Position: **OPPOSE unless amended**

Summary: As amended, this bill requires the California Department of Industrial Relations (DIR) to develop and publish a guide to the workers' compensation return-to-work (RTW) process established by SB 899 (Poochigian), Chapter 34, Statutes of 2004.

[AB 2717 \(Lieber\)](#)

Title: Special Education: Due Process Hearing: Burden of Proof

Status: Assembly Floor

Amended: 3/24/08

Position: **OPPOSE**

Summary: This bill would assign the burden of proof, as defined, in a special education due process hearing to the responsible educational agency, except with regard to the appropriateness of a unilateral parental placement or related services in a case where the parent or guardian is seeking tuition reimbursement for the placement or services.

Note: We are working closely with the statewide education associations and school attorneys to build a case that this is a significant unfunded state mandate.

[AB 2987 \(Benoit\)](#)

Title: Workers' Compensation: Supplemental Job Displacement Benefits

Status: Senate Labor and Industrial Relations

Amended: 4/24/08

Position: **SUPPORT**

Summary: This bill advances the point in time that an injured worker's right to receive the supplemental job displacement benefit is triggered. Specifically, this bill specifies that an injured worker is entitled to receive the supplemental job displacement benefit if he or she does not return to work within 60 days of the date that the first report received by a claims administrator from a treating physician, agreed medical examiner, or qualified medical examiner that indicates the injured workers suffers from a permanent impairment.

[SB 1115 \(Migden\)](#)

Title: Workers' Compensation: Permanent Disability Reports: Apportionment

Status: Assembly Insurance

Position: OPPOSE

Summary: Existing workers' compensation law generally requires employers to secure the payment of workers' compensation, including medical treatment, for injuries incurred by their employees that arise out of, or in the course of, employment. Existing law requires any physician who prepares a report addressing the issue of permanent disability due to a claimed industrial injury to address the issue of causation of the permanent disability, and requires that such a report include an apportionment determination to be considered complete on the issue of permanent disability.

This bill would provide that race, religious creed, color, national origin, age, gender, marital status, sex, or genetic predisposition shall not be considered to be a cause or other factor considered in any determination made pursuant to those provisions.

[SB 1338 \(Migden\)](#)

Title: Workers' Compensation: Medical Treatment: Predesignation of Physician

Status: 03/03/2008

Amended: 4/30/08

Position: OPPOSE

Summary: Existing law, until December 31, 2009, provides an employee with the right to be treated by his or her personal physician from the date of injury if specified requirements are met, including a requirement that the physician agrees to be predesignated. This bill would delete the December 31, 2009, repeal date for those provisions pertaining to an employee's predesignation of a personal physician.

[SB 1717 \(Perata\)](#)

Title: Workers' Compensation: Permanent Partial Disability Benefits

Status: Not yet assigned

Amended: 5/1/08

Position: OPPOSE

Summary: Existing law establishes a workers' compensation system, administered by the Administrative Director of the Division of Workers' Compensation, to compensate an employee for injuries sustained in the course of his or her employment. Existing law requires the payment of disability benefits to eligible individuals for injuries sustained in the course of employment that cause permanent disability, and specifies that the amount of those payments be computed in accordance with a prescribed formula.

This bill would declare the intent of the Legislature to enact legislation that would adjust the formula for determining the amount of permanent partial disability benefits to ensure that the amount of benefits provided to injured workers is adequate to comply with constitutional mandates requiring that substantial justice be afforded to all injured workers in workers' compensation cases.